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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

January 2, 2002  
Before the  
Federal Communications Commission  
Washington D.C. 20554

In the Matter of	)	
	)	
Request for full Commission Review	)	
of a Common Carrier Bureau decision	)	
rendered under Delegated Authority.	)	DA No. 01-2796
	)	
	)	
Federal-State Joint Board on	)	
Universal Service	)	CC Docket No. 96-45
	)	
	)	
Changes to the Board of Directors of the	)	
National Exchange Carrier Association	)	CC Docket No. 97-21

**Application for Review of Delegated Authority Decision**

Form 471 Number: NCS Bar Code: NEC.471.01-19-00.05000968  
Funding Year Three  
Entity Number: 126497  
Contact Name: Dr. Alpheus Arrington, Jr.  
Contact Phone (804) 785-5981

In accordance with 47 CFR 1.115 (Application for review of action taken pursuant to delegated authority), King and Queen County Schools, Virginia requests full Commission review of a Common Carrier Bureau (CCB) decision denying King and Queen's appeal of an administrator's decision. We ask Commission review of this decision under the authority of 47 CFR 1.115 (b)(2) (i), that the action taken pursuant to delegated authority is in conflict with case precedent.

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### **Background**

**King and Queen County schools submitted a Form 471 application for Universal Service, E-Rate discounts for year three to the Schools and Libraries Division on January 19, 2000, within the designated filing window for that year. In its filing, King and Queen failed to complete Item 1, Block 1 and Item 22, Block 5 of the Form 471. The Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) rejected the application and returned it to King and Queen for failing to meet Minimum Processing Standards. King and Queen appealed to the SLD in but was denied in correspondence dated June 15, 2000.**

**King and Queen subsequently requested review by the CCB of this denial. On December 4, 2000 the CCB issued its decision denying the appeal. On December 11, 2001 the CCB issued an erratum to its earlier decision correcting certain errors contained within the initial decision. In its decision, the CCB acknowledged that a blank Item 22, Block 5 of the Form 471 should not be grounds for automatic rejection under the CCB's Naperville decision. According to the decision however, Item 1, Block 1 is not covered by Naperville, as this Item was not new on the form for E-Rate funding year three – one of the requirements imposed in the Naperville decision and denied that aspect of King and Queen's appeal.**

**King and Queen contends that Item 1, Block 1 of the Form 471 should not be grounds for automatic rejection, as that information can be easily ascertained from the form in a number of ways, including Item 3, Block 1, the headers of each Form 471 page, the Block 6 certification page, the Optional Cost Calculation Grid, or simply by calling the contact person in Block 1. Additionally, Minimum Processing Standards have been revised for Funding Year Five and applications will no longer be rejected solely for omission of Block 1, Item 1.**

### **Relevant Case Precedent**

**In the Asociacion de Educacion Privada (AEP) decision - DA 01-2290, released October 4, 2001, the CCB ruled that the SLD should have been able to easily determine missing information from Item 4a, Block 1, of AEP's Form 471. The CCB ordered that AEP's rejected application be remanded to SLD for processing. In this case, AEP did not provide the name of a city in the address category of Block 1, Form 471 and required under SLD Minimum Processing Standards for Form 471 in place at that time. The CCB agreed with AEP's appeal that SLD should reasonably have been able to ascertain the city of the applicant using other documentation contained in the application.**

**In a related ruling by the CCB in an appeal filed by Methacton School District, Norristown, Pennsylvania - DA 00-1046, released May 17, 2000, the CCB ruled that incorrect information provided in one area of the Form 471 could be corrected during appeal, if the correct information was provided in another area. In the case of Methacton, an incorrect Universal Service Control Number (USCN) was listed in Item 12, Block 5 of the Form 471, but was correctly listed in the attached Optional Cost Calculation Grid. The CCB ruled that because the correct USCN was listed elsewhere in the application; in this case CCB specifically noted the correct information was provided in the Optional Cost Calculation Grid; the application should be remanded to SLD for further processing. In the King and Queen application presented here, the information omitted from Item 1, Block 1 was clearly included on the Optional Cost Calculation Grids attached to the application.**

**Subsequently, for E-Rate Year 5, the Minimum Processing Standards have been substantially revised and liberalized. The Form 471 now only requires applicants to provide information on Block 1 Item 1 OR Item 3. We believe new minimum processing standards should prevail when considering appeals of previously rejected applications. We also understand that the USAC E-Rate data entry contractor, NCS Pearson (contractor), was inconsistent in enforcing the Minimum Processing Standards. In some cases the contractor would contact applicants that failed to include Minimum Processing Standard information and fill in the information for them. In other cases the contractor would simply reject the application and return it to the applicant. Beyond a single item below, King and Queen does not provide specific examples of contractor inconsistencies with the enforcement of Minimum Processing Standards with this application. King and Queen suggests a commission audit of contractor records for E-rate years three and four would reveal numerous instances of contractor irregularities regarding Minimum Processing Standards. The contractor has a well documented history of problems associated with implementation of the E-Rate program. In the King and Queen year four E-Rate application, Block 1, Item 3 was left blank, but the application was processed and funded without problem, even though Block 1, Item 3 was required as a Minimum Processing Standard.**

### **Conclusion**

**Based on the similarities to the two precedent setting rulings by the CCB under delegated authority described above, and the fact that Minimum Processing Standards have now been revised to a point where this application would not be rejected, we feel the CCB should have remanded King and Queen's Year Three Form 471 to SLD for further processing. We ask that you overturn this unfortunate decision by the CCB and remand our Year Three Form 471 E-Rate discount application to SLD for processing. Beyond inconsistencies with Minimum**

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**Processing Standard application by the contractor, we feel that there is sufficient precedent with the AEP, Methacton, and Naperville decisions to warrant this action.**

**Respectfully submitted this second day of January, 2002,**

**Dr. Mary L. Linton  
Division Superintendent  
King and Queen County Public Schools  
P.O. Box 97  
King and Queen Court House, VA 23085**